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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/882,834

06/15/2001

Brian D. Laughlin

38190/208850

9209

67141

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12/01/2009

ALSTON & BIRD, LLP

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EXAMINER

ADE, OGER GARCIA

ART UNIT

PAPER NUMBER

3687

MAIL DATE

DELIVERY MODE

12/01/2009

PAPER

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1
2 UNITED STATES PATENT AND TRADEMARK OFFICE
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5 BEFORE THE BOARD OF PATENT APPEALS
6 AND INTERFERENCES
7

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9 *Ex parte* BRIAN D. LAUGHLIN and DAVID R. DENNY
10

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12 Appeal 2008-004045
13 Application 09/882,834
14 Technology Center 3600
15

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17 Decided: December 1, 2009
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21 *Before:* MURRIEL E. CRAWFORD, ANTON W. FETTING, and BIBHU
22 R. MOHANTY, *Administrative Patent Judges.*

23
24 CRAWFORD, *Administrative Patent Judge.*
25

26
27 DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 9, 11 to 19, 59, and 60. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented an inventory control method and system (Spec. 1).

Claim 1 under appeal reads as follows:

1. A method for managing an inventory of at least one product of a supplier that is provided to at least one customer, wherein the at least one customer is capable of receiving and shipping out the at least one product, said method comprising:
creating an open purchase order comprising an acceptable inventory range bounded by a lower limit and an upper limit for each product that the supplier provides to the at least one customer;
storing a supply amount of the at least one product in a storage unit that is remote from the supplier and proximate to the customer;
maintaining a product inventory count for each product representative of the amount of the product that is maintained in inventory by the at least one customer, said maintaining comprising:
decreasing the product inventory count as the at least one customer ships out the respective product; and
increasing the product inventory count as the at least one customer receives additional amounts of the respective product, wherein the at least one customer receives the additional amounts from the supply amount stored in the storage unit; and
monitoring the product inventory count at a supplier location such that the supplier is capable

1 of detecting when product inventory counts
2 approach the respective lower limits, wherein the
3 product inventory count approaches the respective
4 lower limit when the product inventory count falls
5 below a notification level greater than the lower
6 limit and between the lower limit and the upper
7 limit, and wherein the supplier location is remote
8 from the customer location.

9 The prior art relied upon by the Examiner in rejecting the claims on
10 appeal is:

11	Shipman	US 5,819,232	Oct. 6, 1998
12	Cruse	US 2002/0010659 A1	Jan. 24, 2002

13 The Examiner rejected claims 1 to 9, 11 to 19, 59, and 60
14 under 35 U.S.C. § 103(a) as being unpatentable over Cruse in view of
15 Shipman.

16
17 **ISSUE**

18 Have Appellants shown that the Examiner erred in concluding that a
19 person of ordinary skill in the art would have found it obvious from the
20 teachings of the cited references to monitor the product at a supplier location
21 such that the supplier is capable of detecting when product inventory counts
22 approach a lower limit?

23
24 **FINDINGS OF FACT**

25 The Examiner found that:

26 Cruse fails to explicitly disclose . . . monitoring the
27 product inventory count at a supplier location such
28 that the supplier is capable of detecting when

1 product inventory count approach the respective
2 lower limits

3 (Ans. 4).

4 The Examiner found that Shipman discloses the concept of using a
5 computer model to control a manufacturing or distribution process,
6 determining an upper and lower bound of a planned inventory by explicitly
7 accounting for the customer lead time and computing a production schedule
8 at predetermined intervals to maintain an actual inventory between the upper
9 and lower bounds of the planned inventory (Ans. 4).

10 The Examiner concluded:

11 it would have been obvious to one of ordinary skill
12 in the art at the time the invention was made to
13 modify the invention management of Cruse to
14 include the master production scheduling or
15 distribution requirements planning taught by
16 Shipman in order to facilitate the ordering process
17 and provide better service for customers with
18 fewer missed or late shipments.

19 (Ans. 5).

20

21 PRINCIPLES OF LAW

22 In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the
23 Examiner to establish a factual basis to support the legal conclusion of
24 obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

25

26 ANALYSIS

27 We will not sustain the Examiner's rejection. The Examiner has not
28 made a finding that either Cruse or Shipman discloses or suggests
29 monitoring the product at a supplier location such that the supplier is capable

1 of detecting when product inventory counts approach a lower limit. In this
2 regard, the Examiner states that Cruse does not disclose this subject matter.
3 While the Examiner finds that Shipman discloses using a computer model to
4 control a manufacturing or distribution process and determining an upper
5 and lower bound of a planned inventory by explicitly accounting for the
6 customer lead time, the Examiner has not explained how this teaching is a
7 teaching or suggestion of a supplier monitoring a customer's inventory from
8 a second location or of a supplier that can detect when the count *approaches*
9 the lower limit. As such, the Examiner has failed to establish a prima facie
10 case of obviousness.

11
12 **CONCLUSION OF LAW**

13 On the record before us, Appellants have shown error by the
14 Examiner.

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16 **DECISION**

17 The decision of the Examiner is reversed.

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19 **REVERSED**

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